
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to address the
2 county general excise and use tax surcharge.

3 More specifically, this Act:

4 (1) Authorizes the extension of the surcharge by any
5 county that has adopted an ordinance to establish the
6 surcharge before the effective date of this Act;

7 (2) Authorizes other counties to adopt ordinances
8 establishing the surcharge;

9 (3) Limits the use of surcharge revenues to "capital
10 costs"; and

11 (4) Requires certain actions by the board of the transit
12 agency that is constructing the locally preferred
13 alternative for a mass transit project funded by the
14 surcharge.

15 SECTION 2. This Act shall not affect the validity or
16 effect of any surcharge on state tax adopted pursuant to Act
17 247, Session Laws of Hawaii 2005, before the effective date of
18 this Act.



SECTION 3. Section 46-16.8, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~46-16.8~~[§]~~ County surcharge on state tax. (a) Each county may establish a surcharge on state tax at the rates enumerated in sections 237-8.6 and 238-2.6. A county electing to establish this surcharge shall do so by ordinance; provided that:

(1) No ordinance shall be adopted until the county has conducted a public hearing on the proposed ordinance;

(2) The ordinance shall be adopted prior to December 31, 2005; and

(3) No county surcharge on state tax that may be authorized under this ~~[section]~~ subsection shall be levied prior to January 1, 2007~~[-]~~, or after December 31, 2022, unless extended pursuant to subsection (b).

Notice of the public hearing required under paragraph (1) shall be published in a newspaper of general circulation within the county at least twice within a period of thirty days immediately preceding the date of the hearing.

~~[(b)]~~ A county electing to exercise the authority granted under this ~~[section]~~ subsection shall notify the director of



1 taxation within ten days after the county has adopted a
2 surcharge on state tax ordinance and, beginning no earlier than
3 January 1, 2007, the director of taxation shall levy, assess,
4 collect, and otherwise administer the county surcharge on state
5 tax.

6 (b) Each county that has established a surcharge on state
7 tax before the effective date of this Act under authority of
8 subsection (a) may extend the surcharge from January 1, 2023,
9 until December 31, 2027, at the same rates. A county electing
10 to extend this surcharge shall do so by ordinance; provided
11 that:

12 (1) No ordinance shall be adopted until the county has
13 conducted a public hearing on the proposed ordinance;
14 and

15 (2) The ordinance shall be adopted prior to January 1,
16 2016, but no earlier than July 1, 2015.

17 A county electing to exercise the authority granted under
18 this subsection shall notify the director of taxation within ten
19 days after the county has adopted an ordinance extending the
20 surcharge on state tax. Beginning on January 1, 2023, the



1 director of taxation shall levy, assess, collect, and otherwise
2 administer the extended surcharge on state tax.

3 (c) Each county that has not established a surcharge on
4 state tax before the effective date of this Act may establish
5 the surcharge at the rates enumerated in sections 237-8.6 and
6 238-2.6. A county electing to establish this surcharge shall do
7 so by ordinance; provided that:

8 (1) No ordinance shall be adopted until the county has
9 conducted a public hearing on the proposed ordinance;

10 (2) The ordinance shall be adopted prior to January 1,
11 2016, but no earlier than July 1, 2015; and

12 (3) No county surcharge on state tax that may be
13 authorized under this subsection shall be levied prior
14 to January 1, 2017, or after December 31, 2027.

15 A county electing to exercise the authority granted under
16 this subsection shall notify the director of taxation within ten
17 days after the county has adopted a surcharge on state tax
18 ordinance. Beginning on January 1, 2017, the director of
19 taxation shall levy, assess, collect, and otherwise administer
20 the county surcharge on state tax.



1 (d) Notice of the public hearing required under subsection
2 (b) or (c) before adoption of an ordinance establishing or
3 extending the surcharge on state tax shall be published in a
4 newspaper of general circulation within the county at least
5 twice within a period of thirty days immediately preceding the
6 date of the hearing.

7 [~~(e)~~] (e) Each county with a population greater than five
8 hundred thousand that adopts or extends a county surcharge on
9 state tax ordinance pursuant to subsection (a) or (b) shall use
10 the surcharges received from the State for:

11 (1) [~~Operating or capital~~] Capital costs of a locally
12 preferred alternative for a mass transit project; and

13 (2) Expenses in complying with the Americans with
14 Disabilities Act of 1990 with respect to paragraph

15 (1) .

16 The county surcharge on state tax shall not be used to build or
17 repair public roads or highways, bicycle paths, or support
18 public transportation systems already in existence prior to July
19 12, 2005.

20 [~~(f)~~] (f) Each county with a population equal to or less
21 than five hundred thousand that adopts a county surcharge on



1 state tax ordinance pursuant to ~~[subsection (a)]~~ this section
2 shall use the surcharges received from the State for:

3 (1) ~~[Operating or capital]~~ Capital costs of public
4 transportation within each county for public
5 transportation systems, including public roadways or
6 highways, public buses, trains, ferries, pedestrian
7 paths or sidewalks, or bicycle paths; and

8 (2) Expenses in complying with the Americans with
9 Disabilities Act of 1990 with respect to paragraph

10 (1).

11 ~~[(e)]~~ (g) As used in this section, "capital costs" means
12 nonrecurring costs required to construct a transit facility or
13 system, including debt service, costs of land acquisition and
14 development, acquiring of rights-of-way, planning, design, and
15 construction, and including equipping and furnishing the
16 facility or system."

17 SECTION 4. Section 237-8.6, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Each county surcharge on state tax that may be
20 adopted or extended pursuant to section ~~[46-16.8(a)]~~ 46-16.8
21 shall be levied beginning in the taxable year after the adoption



1 of the relevant county ordinance; provided that no surcharge on
2 state tax may be levied [~~prior~~]:

3 (1) Prior to:

4 (A) January 1, 2007[-], if the county surcharge on
5 state tax was established by the adoption of an
6 ordinance prior to January 1, 2007; or

7 (B) January 1, 2017, if the county surcharge on state
8 tax was established by the adoption of an
9 ordinance after June 30, 2015, but prior to
10 January 1, 2016; and

11 (2) After December 31, 2027."

12 SECTION 5. Section 238-2.6, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Each county surcharge on state tax that may be
15 adopted or extended shall be levied beginning in the taxable
16 year after the adoption of the relevant county ordinance;
17 provided that no surcharge on state tax may be levied [~~prior~~]:

18 (1) Prior to:

19 (A) January 1, 2007[-], if the county surcharge on
20 state tax was established by the adoption of an
21 ordinance prior to January 1, 2007; or



1 (B) January 1, 2017, if the county surcharge on state
2 tax was established by the adoption of an
3 ordinance after June 30, 2015, but prior to
4 January 1, 2016; and

5 (2) After December 31, 2027."

6 SECTION 6. Act 247, Session Laws of Hawaii 2005, is
7 amended by amending section 9 to read as follows:

8 "SECTION 9. This Act shall take effect upon its approval;
9 provided that:

10 (1) If none of the counties of the State adopt an
11 ordinance to levy a county surcharge on state tax by
12 December 31, 2005, this Act shall be repealed and
13 section 437D-8.4, Hawaii Revised Statutes, shall be
14 reenacted in the form in which it read on the day
15 prior to the effective date of this Act;

16 (2) If any county does not adopt an ordinance to levy a
17 county surcharge on state tax by December 31, 2005, it
18 shall be prohibited from adopting such an ordinance
19 pursuant to this Act, unless otherwise authorized by
20 the legislature through a separate legislative act;
21 and



(3) If an ordinance to levy a county surcharge on state tax is adopted by December 31, 2005:

(A) The ordinance shall be repealed on December 31, 2022; provided that the repeal of the ordinance shall not affect the validity or effect of an ordinance to extend a surcharge on state tax adopted pursuant to Act , Session Laws of Hawaii 2015;

(B) This Act shall be repealed on December 31, ~~[2022+]~~ 2027; and

(C) Section 437D-8.4, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act."

SECTION 7. (a) For the purposes of this section:

"Board" means the board of directors of the transit agency.

"County" means the county, of which the board is a part.

"Transit agency" means the agency constructing the locally preferred alternative for a mass transit project, the capital costs of which is funded by the county surcharge on state tax authorized under section 46-16.8, Hawaii Revised Statutes, prior to the effective date of this Act.



1 (b) The board shall submit annual reports to the
2 legislature and governor on its transit-oriented development
3 activities. The reports shall be submitted at least twenty days
4 prior to each regular session from 2016 to 2027.

5 The reports shall include a description of:

6 (1) The actions and coordination undertaken to integrate
7 transit-oriented development with anticipated
8 population and housing growth; and

9 (2) The plans and activities to integrate transit stations
10 with surrounding structures, facilities, and uses.

11 (c) With each annual report submitted pursuant to
12 subsection (b), the board shall also submit the following:

13 (1) Management and financial audits of the board, transit
14 agency, and locally preferred alternative for a mass
15 transit project under construction by the transit
16 agency;

17 (2) Project management reports on the construction of the
18 locally preferred alternative for a mass transit
19 project; and

20 (3) Status reports submitted to the Federal Transit
21 Administration by a third party contracted to monitor



1 the construction of the locally preferred alternative
2 for a mass transit project for the Administration.

3 (d) The board shall place, as discussion items on its
4 meeting agendas, each audit and report subject to subsection
5 (c). The audit or report shall be placed on the agenda of the
6 meeting next following the completion of the audit or report.
7 The board shall make available an electronic copy of the audit
8 or report on the board's website at the same time the meeting
9 agendas are posted for the public notice.

10 The board shall receive public testimony on the audits or
11 reports at the meetings, in accordance with chapter 92, Hawaii
12 Revised Statutes.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

Public Transit; County Surcharge on State Tax

Description:

Reauthorizes the counties' authority to establish a county surcharge on state tax for a limited time period, with the surcharge to be effective from 1/1/2017 to 12/31/2027, if adopted. Allows counties that have already established a county surcharge on state tax to extend the surcharge on state tax to 12/31/2027. Limits the use of surcharge revenues to capital costs. Requires the board of directors of the transit agency constructing the locally preferred alternative for a mass transit project to conduct audits, submit annual reports to the governor and the legislature, and conduct public hearings and take testimony on the audits and reports. Effective 7/1/2050.
(Proposed SD2)

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